

In the Matter of NORTHERN TRANSIT COMPANY *and* AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY AND MOTOR COACH EMPLOYEES OF AMERICA, DIVISION 1150, A. F. OF L.

Case No. 18-R-1131.—Decided November 23, 1944

Messrs. W. R. Haggart, and Herbert G. Nilles; of Fargo, N. D., for the Company.

Mr. Frank Fitzgerald, of Minneapolis, Minn., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division 1150, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Northern Transit Company, Fargo, North Dakota, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at Fargo, North Dakota, on November 9, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Northern Transit Company is a Minnesota corporation with its principal office and place of business at Fargo, North Dakota. The Company is engaged in the operation of bus lines for the transporta-

tion of passengers in the cities of Fargo, North Dakota, and Moorhead, Minnesota, and between those two cities. The Company operates six routes, three of which are operated between Fargo and Moorhead. During 1943 the Company derived approximately \$250,000 from the operations of its bus lines. About 3,000,000 passengers were carried by the Company during 1943, less than 10 percent of whom crossed the North Dakota-Minnesota boundary. The Company operates the only bus lines in the cities of Fargo and Moorhead. The Company operates 20 busses, all of which are rented from Northwest Motor Service Company. The latter company receives the busses from Northwest Transit Bus Company of Fargo, North Dakota, which in turn purchases them from Ford Motor Company at Dearborn, Michigan.

We find, contrary to the contentions of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division 1150, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees until such time as the Union is certified by the Board.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in substantial accord with a stipulation of the parties, that all bus drivers of the Company, excluding office and clerical employees, superintendent of drivers, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

¹The Regional Director reported that the Union presented 24 membership application cards. There are approximately 24 employees in the appropriate unit.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Northern Transit Company, Fargo, North Dakota, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of election, to determine whether or not they desire to be represented by Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division 1150, A. F. of L., for the purposes of collective bargaining.